



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,091	02/07/2002	Dan Kikinis	007287.00018	1032

22907 7590 01/11/2008
BANNER & WITCOFF, LTD.
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

EXAMINER

SHANG, ANNAN Q

ART UNIT	PAPER NUMBER
----------	--------------

2623

MAIL DATE	DELIVERY MODE
-----------	---------------

01/11/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/071,091

Applicant(s)

KIKINIS, DAN

Examiner

Annan Q. Shang

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14, 29-42 and 56-68 is/are pending in the application.
- 4a) Of the above claim(s) 57-66 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 29-42, 67 and 68 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Newly submitted claims 57-66 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: independent claims 57 and 62, recites limitation, "...transmitting a request to the source for the missing programming information..." which was not originally claimed.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 57-66 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Response to Arguments

2. Applicant's arguments with respect to claims 1-8, 12-22, 26-36, 40-50 and 54-56 are rejected under 35 U.S.C. 102(e) as being anticipated by **Arsenault et al (6,728,966)** have been considered but are moot in view of the new ground(s) of rejection and Claims 9-11, 23-25, 37-39 and 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Arsenault et al (6,728,966)** as applied to claims 7, 21, 36 and 50 above and further in view of **Emma et al (5,155,831)**, applicant amends the claims and further argues that the prior arts of record do not teach the amended claim limitations (see page 11 of 14+ of Applicant's Remarks).

In response, Examiner disagrees. Examiner notes applicant's arguments, however, with respect to the 102(e) rejection, Arsenault discloses an IRD-36 which receives and stores EPG data in its entirety (col.6, line 55-col.7, line 46) and upon storing the received EPG data in its entirety, partitions the storage to a plurality of discrete storage areas and categorizes a group of labels (a-f) and stores these labels accordingly in the discrete storage areas (figs.3+ and col.8, line 40-col.9, line 40). With respect to the 103(a) rejection, Arsenault is silent as to where the discrete storage area is reference by an empty identifier to indicate that the discrete storage area is available for storing new information. However, this deficiency is disclose in Emma reference figures 1-3, which discloses data processing system with fast queue store interposed between store-through caches and main memory, which makes room for new entries by reference an empty identifier to oldest or least recently data to be removed (see abstract, col.3, line 60-col.4, line 17, col.5, line 23-col.6, line 31 and col.7, lines 18-38). Hence applicant's amendments do not overcome the prior arts of record as discussed below. The amended claims necessitated the new ground(s) of rejection. **This office action is made final.**

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-8, 12-14, 29-36, 40-42, 67 and 68 are rejected under 35

U.S.C. 102(e) as being anticipated by **Arsenault et al (6,728,966)**.

As to claims 1-2, note the **Arsenault** reference figures 1-3, discloses an electronic television program guide (EPG) data naming system and method and further disclose a method and a system for implementing an electronic program guide (EPG), the method/system comprising:

Receiving (34) programming information (EPG data) from a source (fig.1, col.4, lines 27-46);

Storing the received programming information comprising information about individual programs, in its entirety, in data storage area; responsive to storing the received programming information in its entirety, partitioning the data storage area into a plurality of discrete storage area based on a predefined criterion (tile Categorizes a group of labels, col.6, line 55-col.7, line 46 and col.8, line 40-col.9, line 40), note that the IRD-36 receives and stores the EPG data in its entirety (col.6, lines 55-col.7, line 46) and upon storing the received EPG data in its entirety, partitions the storage to a plurality of discrete storage areas and categorizes a group of labels (a-f) and stores these labels accordingly in the discrete storage areas (figs.3+ and col.8, line 40-col.9, line 40).

As to claim 3, Arsenault further discloses where the EPG data further comprises tokens, including compressed forms of the information about individual programs used to describe the individual programs and a meaning associated with the tokens is stored in a token dictionary and is modifiable (col.6, line 55-col.7, line 46 and col.8, line 40-col.9, line 40).

As to claim 4, Arsenault further discloses where the predefined criterion comprises temporal relationship between the individual programs in the received program information and comprises a numeric relationship between token numbers associated with the tokens (col.6, line 55-col.7, line 46 and col.8, line 40-col.9, line 40).

As to claim 5, Arsenault further discloses where the predefined criterion comprises a numeric relationship between token numbers associated with the tokens (col.6, line 55-col.7, line 46 and col.8, line 40-col.9, line 40).

As to claim 6, Arsenault further discloses where a size of each data storage area is selected to store program information about programs to be broadcast over a define time interval (col.6, line 55-col.7, line 46 and col.8, line 40-col.9, line 40).

As to claims 7 and 8, Arsenault further discloses referencing the information stored in each discrete storage area using a storage area identifier to identify the information within a storage area and an index of storage area identifiers and where the storage area identifiers form a pointer chain (col.6, line 55-col.7, line 46 and col.8, line 40-col.9, line 40).

As to claims 12-13, Arsenault further discloses determining that specific programming information is required, which comprises checking if a user has input a

request for specific programming information, checking whether the programming information stored in the discrete storage areas is incomplete for want of specific programming information and requesting the specific programming information from the source (col.6, line 55-col.7, line 46 and col.8, line 40-col.9, line 40).

As to claims 29-30, the claimed "A system for implementing an electronic program guide..." is composed of the same structural elements that were discussed with respect to the rejection of claim 1.

Claim 31 is met as previously discussed with respect to claim 3.

Claim 32 is met as previously discussed with respect to claim 4.

Claim 33 is met as previously discussed with respect to claim 5.

Claim 34 is met as previously discussed with respect to claim 6.

Claims 35-36 are met as previously discussed with respect to claims 7 and 8.

Claims 40-42 are met as previously discussed with respect to claims 12-14.

Claims 67 and 68 are met as previously discussed with respect to claim 3.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 9-11 and 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Arsenault et al (6,728,966)** as applied to claims 7 and 36 above and further in view of **Emma et al (5,155,831)**.

As to claims 9-11 and 37-39, Arsenault further discloses memory management, but fails to explicitly teach where the discrete storage area is reference by an empty identifier to indicate that the discrete storage area is available for storing new information.

However, note the **Emma** reference figures 1-3, discloses data processing system with fast queue store interposed between store-through caches and main memory and further discloses making room for new entries by reference an empty identifier to oldest or least recently data to be removed (abstract, col.3, line 60-col.4, line 17, col.5, line 23-col.6, line 31 and col.7, lines 18-38).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Emma into the system of Ellis in order to update the memory in a fast and efficient manner.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

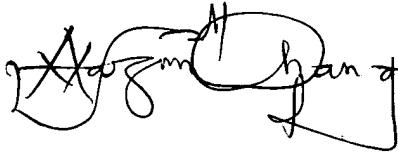
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Application/Control Number:
10/071,091
Art Unit: 2623

Page 9

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC) at 866-217-9197 (toll-free)**. If you would like assistance from a **USPTO Customer Service Representative** or access to the automated information system, call **800-786-9199 (IN USA OR CANADA) or 571-272-1000**.

A handwritten signature in black ink, appearing to read 'Annan Q. Shang', with a stylized flourish at the end.

Annan Q. Shang